

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 614

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE MUNICIPAL EVENT CENTER FUNDING ACT; AUTHORIZING  
MUNICIPALITIES TO CHARGE FEES FOR USE OF A MUNICIPAL EVENT  
CENTER, TO COLLECT A SURCHARGE ON REVENUES ARISING FROM  
ACTIVITIES AT A MUNICIPAL EVENT CENTER AND TO ISSUE REVENUE  
BONDS; CREATING EXEMPTIONS FROM THE GROSS RECEIPTS TAX AND THE  
GOVERNMENTAL GROSS RECEIPTS TAX; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 11 of this act may be cited as the "Municipal Event  
Center Funding Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the costs of acquiring land for and of

1 designing, purchasing, constructing, remodeling,  
2 rehabilitating, renovating, improving, equipping, furnishing,  
3 operating and maintaining municipal event centers have  
4 increased to a level that local financial resources are  
5 inadequate to meet all of the costs;

6 (2) functional and modern municipal event  
7 centers are essential in retaining and attracting cultural,  
8 educational, entertainment and sporting events to  
9 municipalities and the state and are essential for the economic  
10 development and prosperity of municipalities and the state; and

11 (3) even after utilizing local financial  
12 resources, municipalities need additional means to provide  
13 complete funding for functional and modern municipal event  
14 centers.

15 B. The purpose of the Municipal Event Center  
16 Funding Act is to provide an additional method of accessing the  
17 capital markets to meet the need for a complete funding package  
18 for functional and modern municipal event centers.

19 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 Municipal Event Center Funding Act:

21 A. "bonds" means revenue bonds issued by a  
22 municipality to pay for some or all of the costs of acquiring  
23 land for and designing, purchasing, constructing, remodeling,  
24 rehabilitating, renovating, improving, equipping and furnishing  
25 a municipal event center;

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1           B. "chief executive officer" means the mayor or  
2 chief administrative officer of a municipality when designated  
3 in writing by the mayor to perform duties required by the  
4 Municipal Event Center Funding Act;

5           C. "debt service payments" means all payments of  
6 principal, interest, premiums, charges, expenses or other  
7 obligations required to be paid by a municipality for  
8 retirement of bonds;

9           D. "event center revenues" means rentals, receipts,  
10 fees or other charges paid to a municipality for the rights to  
11 use, operate or manage a municipal event center by any person,  
12 corporation or other entity;

13           E. "event center surcharge" means a surcharge to be  
14 included in each vendor contract on tickets, parking,  
15 souvenirs, concessions, programs, advertising, merchandise,  
16 corporate suites or boxes, broadcast rights and all other  
17 products or services sold at or related to the municipal event  
18 center or related to activities occurring at the municipal  
19 event center;

20           F. "governing body" means the council, commission  
21 or other group of elected officials of a municipality in which  
22 is vested the legislative authority of a municipality;

23           G. "municipal event center" means an event center  
24 providing seating for a minimum of four thousand people,  
25 including land, buildings and related improvements, primarily

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1 designed and intended for cultural, educational, entertainment  
2 and sporting events;

3 H. "municipality" means a political subdivision of  
4 the state, organized and operating under a home-rule charter or  
5 the Municipal Code;

6 I. "vendor" means every person, corporation,  
7 partnership or other entity, including a division or department  
8 of a municipality, providing products or services sold at or  
9 related to a municipal event center; and

10 J. "vendor contract" means a contract, agreement or  
11 other written arrangement between a municipality and a vendor  
12 pursuant to which the vendor provides products or services sold  
13 at or related to a municipal event center.

14 Section 4. [NEW MATERIAL] AUTHORIZATION OF SURCHARGE AND  
15 OTHER FEES--USE OF PROCEEDS.--

16 A. A municipality shall include an event center  
17 surcharge in each vendor contract and each vendor contract  
18 shall be signed by the chief executive officer.

19 B. The minimum amount of the event center surcharge  
20 established by a municipality shall be five percent and may be  
21 any higher percentage provided by ordinance adopted by the  
22 governing body.

23 C. A municipality may establish charges and fees  
24 deemed necessary by the governing body or the chief executive  
25 officer for the rights to use, operate or manage a municipal

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1 event center by any person, corporation or other entity.

2 D. Event center revenues and event center surcharge  
3 receipts may be used by a municipality for all or any portion  
4 of:

5 (1) debt service payments;

6 (2) costs of constructing, renovating,  
7 operating, maintaining or improving the municipal event center;  
8 or

9 (3) costs of collecting and otherwise  
10 administering the event center surcharge.

11 E. A municipality shall establish a fund for  
12 construction, renovation, operation, maintenance and  
13 improvement of a municipal event center for deposit of all  
14 event center revenues and event center surcharge receipts that  
15 exceed the required debt service payments, and all receipts  
16 deposited in that fund may be used for such purposes and may  
17 also be used for any other lawful purpose.

18 Section 5. [NEW MATERIAL] COLLECTION OF SURCHARGE--  
19 REMITTANCE TO THE MUNICIPALITY.--

20 A. Every vendor shall collect the event center  
21 surcharge on behalf of the municipality and shall act as a  
22 trustee for the surcharge.

23 B. The event center surcharge shall be collected by  
24 vendors from the users of products or services subject to the  
25 surcharge. Users shall be charged separately for the event

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1 center surcharge from the cost of the product or service  
2 subject to the surcharge or the vendor shall institute  
3 accounting controls or procedures sufficient to identify the  
4 amount of the surcharge owed to a municipality for each sale,  
5 transaction or exchange subject to the surcharge. All receipts  
6 from the event center surcharge shall be remitted by vendors to  
7 the treasurer of the municipality no later than the tenth day  
8 of the month following collection of the receipts.

9 C. The treasurer of a municipality shall deposit  
10 event center revenues and event center surcharge receipts in a  
11 separate account and shall act as trustee of the revenues and  
12 receipts on behalf of the bondholders so long as any bonds  
13 remain outstanding.

14 Section 6. [NEW MATERIAL] AUDITS.--A municipality shall  
15 provide by ordinance a method to either audit or otherwise  
16 ensure that vendors subject to the event center surcharge  
17 collect and remit to the treasurer of the municipality the full  
18 amount of the event center surcharge receipts due to the  
19 municipality.

20 Section 7. [NEW MATERIAL] ENFORCEMENT--PENALTIES.--

21 A. An action to enforce the imposition and  
22 collection of an event center surcharge by a vendor may be  
23 brought by a municipality.

24 B. A district court may issue an appropriate  
25 judgment, order or remedy to enforce the provisions of a vendor

1 contract.

2 C. A judgment issued by a district court requiring  
3 event center surcharge receipts to be paid to the treasurer of  
4 a municipality by a vendor shall also award interest at a rate  
5 of twelve percent on past due amounts, attorney fees and costs  
6 to the municipality.

7 Section 8. [NEW MATERIAL] ISSUANCE OF BONDS.--

8 A. A municipality may issue bonds in accordance  
9 with the procedures set forth in Sections 3-31-1 through  
10 3-31-12 NMSA 1978 to acquire land for and to design, purchase,  
11 construct, remodel, renovate, rehabilitate, improve, equip or  
12 furnish a municipal event center.

13 B. Bonds issued by a municipality may be secured by  
14 event center revenues, event center surcharge receipts or  
15 legally available gross receipts tax revenues distributed to a  
16 municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978.

17 C. An action shall not be brought questioning the  
18 legality of the pledge of event center revenues, event center  
19 surcharge receipts or gross receipts tax revenues, the  
20 ordinance authorizing issuance of the bonds, the bonds, the  
21 proceedings, the event center surcharge to be included in each  
22 vendor contract or any other matter concerning the bonds after  
23 thirty days from the date of publication of the ordinance  
24 authorizing issuance of the bonds and pledging event center  
25 revenues, event center surcharge receipts or gross receipts tax

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1 revenues of a municipality to make the debt service payments.

2 D. The legislature or a municipality shall not  
3 repeal, amend or otherwise modify any law or ordinance that  
4 adversely affects or impairs an event center surcharge or any  
5 bonds secured by a pledge of event center revenues, event  
6 center surcharge receipts or gross receipts tax revenues,  
7 unless the bonds have been paid in full or provisions have been  
8 made for full payment.

9 Section 9. [NEW MATERIAL] CUMULATIVE AND COMPLETE  
10 AUTHORITY.--The Municipal Event Center Funding Act shall be  
11 deemed to provide an additional and alternative method for  
12 obtaining funding for a municipal event center, establishing an  
13 event center surcharge and completing the acts authorized in  
14 that act; shall be regarded as supplemental and additional to  
15 powers conferred by other laws of the state; and shall  
16 constitute full authority for the exercise of powers granted by  
17 that act, including the pledging of event center revenues,  
18 event center surcharge receipts or gross receipts tax revenues  
19 by a governing body to make debt service payments.

20 Section 10. [NEW MATERIAL] LIBERAL INTERPRETATION.--The  
21 Municipal Event Center Funding Act, being necessary for the  
22 welfare of the state and its inhabitants, shall be liberally  
23 construed to the effect of the purposes of the act.

24 Section 11. [NEW MATERIAL] SEVERABILITY.--If any part or  
25 application of the Municipal Event Center Funding Act is held

1 invalid, the remainder of its application to other situations  
2 or persons shall not be affected.

3 Section 12. A new section of the Gross Receipts and  
4 Compensating Tax Act is enacted to read:

5 "[NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX--  
6 GOVERNMENTAL GROSS RECEIPTS TAX--EVENT CENTER SURCHARGE.--  
7 Exempted from the gross receipts tax and from the governmental  
8 gross receipts tax are the receipts from selling tickets,  
9 parking, souvenirs, concessions, programs, advertising,  
10 merchandise, corporate suites or boxes, broadcast rights and  
11 all other products or services sold at or related to a  
12 municipal event center or related to activities occurring at  
13 the municipal event center on which an event center surcharge  
14 is imposed pursuant to the Municipal Event Center Funding Act."

15 Section 13. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.